

STATE OF INDIANA

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LAPORTE COUNTY – REASSESSMENT ORDER

The Department of Local Government Finance (Department) passed Resolution 2008-01 on May 1, 2008 pursuant to Ind. Code § 6-1.1-4-9, finding sufficient cause to believe it necessary to reassess all or a portion of real property in LaPorte County, Indiana (LaPorte County).

The Department published notice of a public hearing in accordance with Ind. Code § 6-1.1-4-10 on May 5, 2008 and held a public hearing regarding the reassessment on Thursday, May 15, 2008, at 5:00 p.m. (CDT), in the Assembly Rooms at the LaPorte County Complex, 809 State Street, LaPorte, Indiana.

APPLICABLE LAW

1. Article 10, Section 1 of the Indiana Constitution requires the General Assembly to provide, by law, for a uniform and equal rate of property assessment and taxation and shall prescribe regulations to secure a just valuation for taxation of all property, both real and personal.
2. Ind. Code § 6-1.1-2-2 requires all tangible property to be assessed on a just valuation basis and in a uniform and equal manner.
3. Ind. Code § 6-1.1-4-31 requires the Department to periodically check the conduct of work required to be performed by local officials under 50 IAC 21 (i.e., annual adjustment, or “trending,” rule) and other property assessment activities in the county, as determined by the Department.
4. Ind. Code § 6-1.1-31-5 states that the rules adopted by the Department are the basis for determining the true tax value of tangible property.
5. Ind. Code § 6-1.1-31-5 requires county assessors to comply with the rules, appraisal manuals, bulletins, and directives adopted by the Department.
6. Ind. Code § 6-1.1-35-1 requires the Department to interpret the property tax laws of this state, instruct property tax officials about their taxation and assessment duties, and see that all property assessments are made in the manner provided by the law.
7. The Department is constitutionally and statutorily obliged to review the assessment of property to ensure compliance with Article 10 Section 1 of the Indiana Constitution. *Bielski v. Zorn*, 627 N.E.2d 880, 885 (Ind. Tax Ct. 1994)(case involving State Board of Tax Commissioners, which is the predecessor to the Department).

8. Ind. Code § 36-2-15-5 requires that county assessors perform the functions assigned by statute to the county assessors.
9. The Department has adopted 50 IAC 21, an administrative rule that requires the annual adjustment of all real property values in accordance with Ind. Code § 6-1.1-4-4.5 beginning with the March 1, 2006, assessment date.
10. In accordance with 50 IAC 14-2-1 and 50 IAC 21-2-3, the 1999 International Association of Assessing Officers (IAAO) Standard on Ratio Studies are incorporated by reference into 50 IAC 14 and 50 IAC 21.

FINDINGS OF FACT

The Department has thoroughly reviewed all evidence and testimony presented to the Department by County officials, Nexus Group, Mr. Robert C. Denne, Mr. William H. Wendt, Mr. Thomas Atherton, and the people of LaPorte County; and analyses presented to and produced by the Department in this matter of the uniformity and equity of the March 1, 2006 assessments in LaPorte County. This evidence, except for that evidence received after the public hearing until May 21, 2008, was available for inspection by the people of LaPorte County, at the May 15, 2008 public hearing. The additional evidence received since that time, is available upon request at the Department, and much of the evidence and testimony considered is currently available at the Department's website: <http://www.in.gov/dlgf/2577.htm>. Thus, in consideration of all of the evidence and testimony presented to the Department, the Department now makes the following findings regarding the need for the reassessment of all or a portion of the real property in LaPorte County for the March 1, 2006, assessment date.

Timeline

11. On February 28, 2007, the Department approved the 2006 sales-assessment ratio study submitted by LaPorte County ("County") for the March 1, 2006 assessment date, but notified the County Assessor of "questions raised about assessment practices." The Department promised to "continue to monitor the situation." Att. 1, *Ltr from Henson to County Assessor*, February 28, 2007.
12. The questions raised about assessment practices were from LaPorte County property owner, William H. Wendt, and based on a study he commissioned by Robert C. Denne of Almy, Gloudemans, Jacobs, & Denne. Att. 2, *Memo from Denne to Wendt on LaPorte County Ratio Study*, February 28, 2007. That report alleged "two main lines of evidence that are suggestive of the probability of sales chasing in these data." *Id.*
13. On March 6, 2007, J. Barry Wood, Assessment Division Director of the Department, contacted the County Assessor to inform her that the question of "sales chasing" had been raised, particularly in Michigan Township. Att. 3, *Ltr from Wood to County Assessor*, March 6, 2007.
14. On March 9, 2007, Dr. Frank S. Kelly, president of Nexus Group, the County's vendor, responded to Mr. Wood's letter to the County Assessor. Dr. Kelly provided a response to the

“accusations that have led to the delay in the approval of the 2006 Laporte County Ratio Study.” Att. 4, *Ltr from Kelly to Wood*, LaPorte County 2006 Annual Trending: Summary, Rebuttal & Exhibits, Vol. I, March 5, 2008, Tab 7.

15. On March 14, 2007, Representative Scott D. Pelath contacted then-Department Commissioner Melissa Henson expressing concern that the “department is requiring the county to take additional steps to prove that their initial assessments were valid.” Att. 5, *Ltr from Rep. Pelath to Henson*, March 14, 2007.

16. On March 16, 2007, Commissioner Henson notified the County Assessor that the LaPorte County 2006 ratio study was approved by the Department. Att. 6, *Ltr from Henson to County Assessor*, March 16, 2007; Att. 7, *DLGF Summary Worksheet for LaPorte*, LaPorte County 2006 Annual Trending: Summary, Rebuttal & Exhibits, Vol. I, March 5, 2008, Tab 17.

17. On March 16, 2007, Commissioner Henson informed Mr. Wendt that “[o]ur assessment professionals found the County’s responses to satisfactorily explain the statistical abnormalities you presented.” Att. 8, *Ltr from Henson to Wendt*, March 16, 2007.

18. On March 30, 2007, Commissioner Henson responded to Representative Pelath and stated, “[t]he Department takes the assessment process serious and, when information is presented to us challenging the fairness and equity of assessments in a given area, we have a responsibility to adequately review the documentation before making a final determination.” Att. 9, *Ltr from Henson to Rep. Pelath*, March 30, 2007.

19. On September 6, 2007, the Department, based upon the evidence available at that time and after a test was conducted to determine the percent of change from 2005-pay-2006 to 2006-pay-2007 in each classification of property in each township and county-wide, informed the County it would not be subject to a reassessment order. Att. 10, *Email from Raskosky to County Assessor*, September 6, 2007; Att. 11, *Laporte Value Change by Class*, LaPorte County 2006 Annual Trending: Summary, Rebuttal & Exhibits, Vol. I, March 5, 2008, Tab 17.

20. On October 19, 2007, the Department received a sales-assessment ratio study conducted by analyst Robert C. Denne entitled “Sales Chasing in LaPorte County for Pay 2007 Assessments,” (“Denne study”) for Mr. Wendt. Att. 12, *Assessments for LaPorte County dated March 1, 2006, pay 2007 – compliance with legal requirements and professional standards*, October 19, 2007.

21. The results of the Denne study demonstrated that for virtually every combination of township and major class of property required to be analyzed under the law, “at least one of the four major criteria of acceptable assessment quality was failed, and more generally several if not all such criteria were failed.” The four criteria referred to were coefficient of dispersion (COD), price-related differential (PRD), 95% confidence interval around the median ratio, and the median assessment ratio for each class of property which should be within 5% of the overall assessment ratio. Such results violate the IAAO Standard on Ratio Studies, which are incorporated by reference into 50 IAC 14 and 50 IAC 21, and, as a result, are part of Indiana law. *Id.*

22. The Department agreed to meet with Mr. Wendt and his representatives because of the Department's constitutional duty to ensure a "uniform and equal rate of property assessment and taxation," and that "all tangible property" is "assessed on a just valuation basis and in a uniform and equal manner," and to "see that all property assessments are made in the manner provided by the law." Ind. Const. Article 10 § 1; Ind. Code § 6-1.1-2-2; Ind. Code § 6-1.1-35-1.

Additionally, the Department believes then, as it does now, that it is constitutionally and statutorily obliged to review the assessment of property to ensure compliance with Article 10 Section 1 of the Indiana Constitution. *Bielski v. Zorn*, 627 N.E.2d 880, 885 (Ind. Tax Ct. 1994).

23. On October 22, 2007, Commissioner Cheryl A. W. Musgrave, General Counsel Timothy J. Rushenberg, and Assessment Division Director J. Barry Wood met with Mr. Wendt, analyst Robert C. Denne, and Mr. Wendt's attorney, Mr. Thomas Atherton, to discuss the results of the Denne study to determine if there was any merit to the allegations within the Denne report.

24. On October 29, 2007, Mr. Atherton filed a formal complaint, or request, with the Department on behalf of Mr. Wendt asking that the Department order a reassessment of all property in LaPorte County based upon the results of the Denne study. Att. 13, *Atherton ltr to Musgrave*, October 29, 2007. In the letter, Mr. Atherton discusses the statutory authority by which the Department may conduct or order a reassessment in LaPorte County. He cites to Ind. Code § 6-1.1-4-9 [state ordered reassessment], Ind. Code § 6-1.1-4-31 [state-conducted reassessment], and Ind. Code § 6-1.1-33.5-1 [reassessment based on coefficient of dispersion study]. Mr. Atherton summarized the Denne study's conclusions that the two measurements of assessment accuracy and equity: the COD and PRD, in violation of 50 IAC 14 [Indiana's equalization standard]. *Id.*

25. On November 7, 2007, after eight days of review and discussion of the merits of the Denne study, the Department concluded to further review the allegations of inaccuracy and inequity in the assessments in LaPorte County for 2006-pay-2007. Thus, the Commissioner contacted the LaPorte County Assessor and other county officials via telephone to request that the County respond to the Denne study by December 7, 2007.

26. On November 20, 2007, in a letter from the Commissioner to the County Assessor, the deadline for a response to the Denne study was moved to December 10, 2007. Att. 14, *Musgrave ltr to County Assessor*, November 20, 2007.

27. On November 23, 2007, the LaPorte County Attorney Shaw Friedman contacted the Department via email objecting to an "ex parte meeting" on October 22, 2007 with Mr. Wendt and his representatives. Att. 15, *Email ltr from Friedman*, November 23, 2007. The Department disagrees with the characterization that the meeting between a taxpayer and the Commissioner was an ex parte communication. That term is applicable to an on-going court case or litigation and refers to communication between a judge and one party to a court case. Nevertheless, once the Department received Mr. Atherton's petition requesting a full reassessment of LaPorte County on October 29, 2007, no further substantive communications on this issue of reassessment occurred between the parties without the other party present.

28. On November 28, 2007, the County through its vendor, Nexus Group, responded to the Denne study. In their response, Nexus Group explained the “fatal flaws” in the Denne February 2007 report. In the response, Nexus Group criticized a method proposed by Mr. Denne to measure “sales chasing” that would compare CODs calculated for the ratios of the year-2005-assessments divided by validated sales prices and those calculated for the ratios of the year-2006-assessments divided by the same sales price.” Nexus Group described that method as “completely flawed.” Nexus Group also criticized Denne’s “focus on sales from 2006 as a measurement of the quality of 2006-pay-2007 real property assessed values reflects negligence of basic annual adjustment procedures as outlined in Indiana Administrative Code.” Att. 16, *LaPorte County Response to Denne (“October Report”)*, *Wendt & Atherton Inquiries*, LaPorte County 2006 Annual Trending: Summary, Rebuttal & Exhibits, Vol. I, March 5, 2008, Tab 8; Compact Disc.

29. On December 4, 2007, the Department requested from Mr. Atherton that Mr. Wendt provide the Department with more data used in the Denne study. This request was made by the Department in order to further explore the merits of the Denne study and the Nexus Group’s response to the Denne study. Att. 17, *Musgrave ltr to Atherton*, December 4, 2007.

30. On December 4, 2007, the Department received a written inquiry from Representative Pelath stating that he had learned the Department “may revoke its certification of LaPorte County’s property tax assessments.” He asked six questions pertaining to the review of the assessments in LaPorte County. Att. 18, *Rep. Pelath ltr to Musgrave*, December 4, 2007.

31. On December 13, 2007, the Commissioner responded to each of Representative Pelath’s questions in his December 4, 2007 letter, and stated the Department’s goal: “to ensure a uniform and equitable property assessment system for the taxpayers of LaPorte County.” Att. 19, *Musgrave ltr to Rep. Pelath*, December 13, 2007.

32. On December 17, 2007, the Department received an email from Nexus Group alleging that former Department employee Lori Harmon “has received payment from Mr. Wendt for assistance with information, reviews, etc....” Also attached to the email was a March 9, 2007 letter to former Commissioner Henson alleging “intentional intermeddling” with the business and contractual affairs of Nexus Group by suggesting to Mr. Wendt that he contract with Robert Denne. Att. 20, *Email from Kelly re: ethics*, December 17, 2007. This was the first time the current administration at the Department, including the Commissioner and the General Counsel who arrived in July 2007 and August 2007, were made aware of the prior allegation or the recent allegation. On December 18, 2007, the Department forwarded the ethics complaint to the Indiana state ethics commission.

33. On December 21, 2007, the Department notified both the County and Mr. Wendt of the process the Department would use in conducting its analysis of the County’s ratio study and the Denne study. The Department stated that it intended to compare the results from the county’s March 2007 ratio study with a sales-assessment ratio study the Department would create from the 2006-pay-2007 tax billing data submitted by the County to the Department on December 2, 2007. Second, the Department intended to compare the gross assessed valuations for specific parcels in the county’s March 2007 ratio study, the October 2007 Denne study, and the county’s

tax billing data. The parcel-level review would allow the Department to determine whether the assessed valuations for specific parcels dramatically changed at the various points analyzed by the three different studies. The letter also requested additional data from Mr. Wendt, and notified the County its tax billing data for 2006-pay-2007 was non-compliant. Lastly, the Department stated its goal: “to ensure uniform and equitable property assessments for the property taxpayers of LaPorte County.” Att. 21, *Musgrave Ltr to County Assessor and Atherton*, December 21, 2007.

34. On January 17, 2008, the Department sent a letter to both the County and Mr. Wendt regarding non-compliant County data and data previously requested from the Denne study that had not yet been received by the Department, and to provide an update on the progress of the Department’s review of the 2006-pay-2007 assessments in LaPorte County. Att. 22, *Musgrave Ltr to County Assessor and Atherton*, January 17, 2008.

35. On January 24, 2008, the Department received the requested data from the Denne study, which allowed the Department to study and analyze the data used to create the study. Att. 23, *Denne email to Department re: LaPorte County Ratio Study Data*, January 24, 2008.

36. On January 24, 2008, Mr. Atherton submitted a response to the November 28, 2007 letter from Nexus Group. In the letter, Mr. Atherton points to the “conflicting evidence” presented to the Department in the form of the LaPorte County sales ratio study and the ratio study prepared by Nexus Group. In the letter, Mr. Atherton clarifies the analytical differences between the Nexus and Denne. He also presented the earlier allegation concerning horizontal inequity, or “sales chasing,” that would invalidate the results of the 2006-pay-2007 LaPorte ratio study. Lastly, he responded to Nexus’s charge that Denne improperly focused on sales from 2006 by noting that augmenting valid 2004 and 2005 sales data with 2006 sales data was “application of the correct standard. See 50 IAC 21-3-3(c).” Att. 24, *Atherton Ltr to Department*, January 24, 2008.

37. On January 30, 2008, a news report stated the presence of the backlog of approximately 2,000 appeals waiting to be heard for tax year 2006 by the County PTABOA. Att. 25, Laurie Wink, Michigan City News-Dispatch, “*PTABOA Meets Today*”, January 30, 2008. In response to a cancelled meeting the following day on January 31, the Department sent an assessment field representative, Sharon Elliott, to determine whether the complaints received by the Department about the local PTABOA were accurate. Att. 26, Rick A. Richards, Michigan City News-Dispatch, “*Meeting Canceled*”, January 31, 2008; Att. 27, *Friedman email to Department re: PTABOA*, January 31, 2008.

38. On February 7, 2008, the Department informed the County of its status of various Access to Public Records Act (APRA) requests, updated the County on the Department’s forwarding of Dr. Kelly’s allegation against Ms. Harmon to the state ethics commission on December 18, 2007, provided a status on the stage of data review, and offered to assist “the county and the taxpayers break the logjam of appeals” at the PTABOA. Att. 28, *Department email to Friedman*, February 7, 2008.

39. On February 20, 2008, the County notified the Department it had filed a formal ethics complaint against Ms. Harmon. Att. 29, *Friedman email to Department*, February 20, 2008.
40. On February 25, 2008, the 2006-pay-2007 County Auditor/tax billing dataset was deemed compliant with state standards of the Department and the Legislative Services Agency (LSA). Att. 30, *Clerkin email re: LaPorteAuditorPay07*, February 25, 2008. This allowed the Department to finally study and analyze the data.
41. On February 25-26, 2008, the Department notified the County and Mr. Wendt of its intent to hold a public hearing in LaPorte on March 6, 2008 with the purpose of discussing the relevant evidence presented to the Department up until that time. Att. 31, *Department email to Friedman re: 2006-pay-2007 LaPorte Co. assessments*, February 25, 2008; Att. 32, *Department email to Atherton re: LaPorte County*, February 26, 2008.
42. On February 27, 2008, Mr. Atherton contacted the Department providing additional analysis on the methods the Nexus Group used to treat sold properties differently from unsold properties, which, in turn, invalidated the County's ratio study. Mr. Atherton correctly states in his letter that the IAAO Standard, which is incorporated by 50 IAC 21-3-1, prohibits the practice of treating sold properties differently from unsold properties. His letter provided a detailed analysis conducted by Mr. Denne of five subjective characteristics: grade, condition, effective date of construction, physical depreciation and obsolescence depreciation. Mr. Denne then examined the LaPorte sales and assessment data to see whether sold and unsold properties were treated the same in relation to these five characteristics. His conclusion indicated a "99.9% certainty that the differences between the sold and unsold properties were the product of impermissible assessment action: sales chasing." Att. 33, *Atherton ltr to Department*, February 27, 2008.
43. On February 29, 2008, the Department provided notice to the parties and the public through posting the public notice and publication in the newspaper of the scheduled March 6, 2008 public hearing in LaPorte. Att. 34, *Notice of Public Meeting*, February 29, 2008.
44. On March 4, 2008, the Department created a ratio study from the 2006-pay-2007 County Auditor/tax billing data. Att. 35, *Department email to Wendt and County*, March 4, 2008. The following day, upon the receipt of comments alleging errors in the analysis, the Department decided against presenting its memorandum on its analysis until all submitted questions were addressed. Att. 36, *Department email to Wendt and County re: analysis/public*, March 5, 2008.
45. On March 6, 2008, the Department conducted a public hearing in LaPorte on the 2006-pay-2007 to discuss the accuracy, uniformity, and equity of the assessment of real property in LaPorte County for 2006-pay-2007; with a particular emphasis on the Denne study in accordance with the Department's authority under Ind. Code § 6-1.1-4-31 to periodically check the conduct of work required to be performed by local officials under 50 IAC 21 and other property assessment activities in the county, as determined by the Department. Att. 37, *Department PowerPoint presentation*, March 6, 2008.
46. The March 6, 2008 public meeting lasted over three hours and nearly thirty (30) LaPorte County property taxpayers voiced concerns regarding assessments in the County. Both parties

presented additional documentation to the Department for its consideration, including an allegation from Mr. Atherton of Nexus' "sales chasing." Att. 38, *Speaker Sign-in List*, March 6, 2008.

47. On April 10, 2008, the Department notified the County and Mr. Wendt of the results of its ratio study, which was created from the 2006-pay-2007 tax billing/Auditor data, and the Mann-Whitney test. Att. 39, *Department ltr to Wendt and County re: DLGF Mann-Whitney and ratio study*, LaPorte County 2006 Annual Trending: Exhibits, Vol. II, May 15, 2008, Vol. II, Tab C. **The results of the Mann-Whitney tests and ratio studies will be discussed further below.**

48. On April 16, 2008, the Department hosted a meeting between Nexus, the County, Mr. Wendt's representatives, and representatives from the Department to discuss the various data analyses, particularly, the Mann-Whitney tests conducted by the Department and Mr. Denne. Att. 40, *email exchanges between Department, County, and Wendt re: scheduling of mtg regarding DLGF analysis -- LaPorte*, April 14, 2008.

49. Various documents were presented by both sides at the April 16, 2008 meeting, which have been considered by the Department and will be discussed in greater detail below.

50. On April 24, 2008, the Department, the County and Nexus, and Mr. Wendt and his representatives participated in a meeting at the Department. Most of the participants were present via telephone. Att. 41, *Email exchange re: conference call among Department, County and Nexus, and Wendt and his representatives*, April 23, 2008. Both sides presented documentation before and after the meeting which has been considered by the Department.

51. On May 1, 2008, the Department issued Resolution #2008-01 declaring it finds "compelling evidence" of assessment errors, including but not limited to: that sold and unsold improved residential parcels in LaPorte County may have been treated differently and that the County through its vendor may have intentionally and unjustifiably changed assessment elements in order to reach a "bottom line value." Att. 42, *Resolution #2008-01*, May 1, 2008.

52. On May 1, 2008, the Department issued the required public notice for publication in the Michigan City News-Dispatch and the LaPorte Herald-Argus. Att. 43, *Notice of Public Hearing on Indiana Department of Local Government Resolution #2008-01*, May 1, 2008 with advertising receipts.

53. On May 7, 2008, Representative Pelath sent a letter to the Governor requesting a full investigation into the performance of the Department. Att. 44, *Rep. Pelath ltr to Governor*, May 7, 2008, LaPorte County 2006 Annual Trending: Exhibits, Vol. II, May 15, 2008, Vol. II, Tab M.

54. On May 8, 2008, the County Attorney was quoted in the Michigan City News-Dispatch urging "taxpayers to let the DLGF know that they don't want a reassessment...." Att. 45, Laurie Wink, Michigan City News-Dispatch, *County Bracing for Possible Reassessment*, May 8, 2008. To date, the Department has received twenty-one (21) letters or emails in support of reassessment and two (2) letters opposed to reassessment. Att. 46, *Letters to Department for and against reassessment*.

55. On May 15, 2008, the Department conducted the properly advertised public hearing in LaPorte and presented a PowerPoint presentation. Att. 47, *Public Hearing on Reassessment of Real Property in LaPorte County*, May 15, 2008. The Department collected additional documentation and testimony from the County and Nexus, Mr. Wendt and his representatives, and the members of the public. The Department considered all of this presented documentation and testimony.

56. On May 20, 2008, the Department responded to Dr. Thomas Hamilton's testimony and presentation on behalf of Nexus at the May 15, 2008 public hearing. This is discussed below.

57. On May 21, 2008, Nexus and Mr. Atherton submitted additional documentation to be considered by the Department. This documentation was considered.

Department's Analysis of "Sales Chasing"/Horizontal Inequity

58. The Mann-Whitney test is a recommended statistical measure by the IAAO 1999 Standard on Ratio Studies to determine whether there is horizontal equity between two (2) or more property groups; in other words, to check to see whether two (2) or more property groups are appraised at the same percentage of market value. IAAO Standard 10.1 requires assessing officials to "ensure that sold and unsold parcels are treated equally." It further states that, "if unsold properties are not appraised consistently with sold properties and applicable guidelines, unadjusted sales ratio results cannot be used." Att. 39, *Department ltr to Wendt and County re: DLGF Mann-Whitney and ratio study*, LaPorte County 2006 Annual Trending: Exhibits, Vol. I, May 15, 2008, Vol. II, Tab C.

59. In accordance with the IAAO *Mass Appraisal of Real Property* and the 1999 IAAO Standard on Ratio Studies, Standard 10.3, the Department conducted a Mann-Whitney statistical test on the percent change in assessed value of sold and unsold improved residential properties in nineteen (19) of the twenty-one (21) townships in LaPorte County to determine whether horizontal equity had been violated by the County and Nexus Group for 2006-pay-2007 assessments. *Id.*

60. The Department's April 10, 2008 Mann-Whitney test compared the percentage change in assessed value for two groups of parcels in LaPorte County: (1) those parcels used in the original ratio study, and (2) all other parcels in the county which had not been sold since January 1, 2004. The comparison was done on the township level, and properties that were newly constructed or had changed in property class during the comparison years were not included. For expediency, only improved residential parcels were studied. *Id.*

61. The Department's April 10, 2008 Mann-Whitney study revealed that in nine (9) out of nineteen (19) tested townships, sold residential-improved parcels were assessed differently than unsold residential-improved parcels. The townships at issue are: Center, Galena, Hanna, Kankakee, Michigan, New Durham, Scipio, Springfield, and Washington. With three exceptions, these results agreed with the findings of the Denne study on "sales chasing." *Id.*

62. The Department's April 10, 2008 Mann-Whitney test found a significant violation of the IAAO standard regarding horizontal equity in property assessment (1999 IAAO Standard on Ratio Studies, Standard 10); and thus, a violation of 50 IAC 21-3-1 by the County for 2006-pay-2007. Such a significant violation of horizontal equity among sold and unsold properties also may violate the Indiana Constitution's requirement of "a uniform and equal rate of property assessment and taxation." *Id.*

63. On April 16, 2008, the Department met with representatives from Nexus, the County, and Mr. Wendt's representatives. At that meeting, the Department presented a study on the evaluation of effective age change between years 2005 and 2006 in unsold and residential improved dwellings in LaPorte County. The findings revealed in Dewey Township that 122 out of 297 parcels, or 41%, had their effective age changed between 2005 and 2006. Further investigation revealed that 104 of the 122 changed parcels, or 85%, had a real construction year prior to the year 1950 changed during the 2006 assessment to an effective age of 1950. Att. 48, Mr. David Schwab, *Evaluation of Effective Age Change Between Years 2005 and 2006 in Unsold Residential Improved Dwellings in LaPorte County*, April 16, 2008.

64. The April 10, 2008 findings that sales chasing occurred in the Department's April 10, 2008 Mann-Whitney test were disputed by the County and Nexus Group on the basis of the six (6) year change in the valuation date from January 1, 1999 (for the March 1, 2005 assessment date) to January 1, 2005 (for the March 1, 2006 assessment date) and what the Nexus Group deemed as previous "reassessment activities" undertaken by Nexus Group in LaPorte County since June 2004. Att. 49, Nexus Group, *DLGF Ratio Study Analysis*, April 16, 2008.

65. The last statewide general reassessment in Indiana was for 2002-pay-2003 and the first year for the annual adjustment process was for 2006-pay-2007. It is not clear to the Department what kind of "reassessment activities" Nexus Group was undertaking in LaPorte County since 2004 and why these activities were being done in a non-general reassessment and non-annual adjustment year. See *2002 Real Property Assessment Manual*, page 2; see also Ind. Code § 6-1.1-4-4.5.

66. In the aforementioned April 16, 2008 submission of its analysis and argument that the Department failed to establish a reasonable tolerance in percentage changes between sold and unsold property, Nexus Group incorrectly cites to "Appendix D" of the IAAO Standard on Ratio Studies as though the particular version of this Standard to which Dr. Kelly cited is currently law in Indiana. It is not. As was indicated at the May 15, 2008 public hearing, Appendix D and the cited language are found in the 2007 Standard on Ratio Studies, which has not been incorporated by reference into law in Indiana as of yet; and even if it had been incorporated by reference into the law it would not have applied to 2006-pay-2007. Att. 49, Nexus Group, *DLGF Ratio Study Analysis*, April 16, 2008. Dr. Kelly admitted at the May 15, 2008 public hearing to this version of the Standard's inapplicability to 2006-pay-2007, and the fact it is not incorporated into the law.

67. Additionally, no compelling evidence or persuasive argument was provided to the Department that indicated the Mann-Whitney test is to be conducted only on an annual basis. In fact, to the contrary, in a March 9, 2007 letter from the vendor's Dr. Frank Kelly to the

Department's Assessment Division Director, J. Barry Wood, Dr. Kelly endorsed the use of "a Wilcoxon-Mann-Whitney or similar non-parametric test" to detect "sales chasing" in LaPorte County for 2006-pay-2007. Att. 4, *Ltr from Kelly to Wood*, March 9, 2007, LaPorte County 2006 Annual Trending: Summary, Rebuttal & Exhibits, Vol. I, March 5, 2008, Tab 7.

68. The Department notes that Nexus Group has now changed its position on the use of the Mann-Whitney test for purposes of detecting "sales chasing" for 2006-pay-2007 assessments in LaPorte County when it had earlier endorsed such use of the test.

69. Nevertheless, at the May 15, 2008 hearing, Nexus Group and the County offered Dr. Thomas Hamilton an opportunity to speak and present evidence to the Department to refute the Denne tests and the Department's tests. Att. 50, *An Analysis of Ratio Studies & Sales Chasing Studies Conducted by the Indiana Department of Local Government Finance and Mr. Robert Denne*, May 15, 2008, LaPorte County 2006 Annual Trending: Exhibits, Vol. II, May 15, 2008, Tab B.

70. In his analysis, Dr. Hamilton was provided two ratio studies by Mr. Denne. He did not review the February 2007 ratio study since that one was not accepted by the Department. He reviewed the second study and determined that based on the methodology employed by Mr. Denne to establish A/S ratios for his analysis, "it is impossible for his conclusions to be considered valid." *Id.*

71. Dr. Hamilton also reviewed the second Department ratio study provided to the parties on April 10, 2008. He acknowledges that after "the DLGF ratio study is corrected, appropriate statistical tests are conducted, and inadequate sample size is investigated, the remaining issues involve vacant residential land in Hanna and Hudson townships." *Id.*

72. Dr. Hamilton's analysis of the sales chasing studies only addresses the Denne report and not the Department's Mann-Whitney test provided to the County, Nexus, and Wendt on April 10, 2008 – over a month prior to the public hearing. *Id.* At the May 15, 2008 public hearing, when asked by Mr. David Schwab of the Department, Dr. Hamilton admitted to not having reviewed the Department's Mann-Whitney test. <http://www.in.gov/dlgf/2577.htm>.

73. On May 20, 2008, the Department, in response to Dr. Hamilton's submission at the public hearing, without abandoning or refuting the results of its April 10, 2008 Mann-Whitney test, conducted another Mann-Whitney test and a Student's t-test to determine whether Dr. Hamilton raised any worthwhile arguments about the inapplicability of the Mann-Whitney test at the public hearing. Att. 51, *DLGF Analysis of Dr. Thomas Hamilton's Report on Sales Chasing in LaPorte County*, May 20, 2008. The May 20, 2008 memorandum describing his analysis from Mr. Schwab is clear that the Department did not refute or withdraw or abandon the results of the April 10, 2008 Mann-Whitney test as is alleged by Nexus. If anything, this additional test proved even more so that "sales chasing" has occurred in LaPorte County among improved residential properties.

74. After the Mann-Whitney non-parametric test, the Department tested Dr. Hamilton's argument and performed a t-test, which is a statistical test recommended by the IAAO as a

parametric test for sales chasing. IAAO 1999 Standard on Ratio Studies, Table 5, pg. 47. The t-test was performed on all townships in LaPorte County with more than thirty (30) sold parcels and of the twelve (12) townships examined, nine (9) tested positive for sales chasing: Cass, Center, Clinton, Coolspring, Kankakee, Michigan, New Durham, Scipio, and Union. Att. 51, *DLGF Analysis of Dr. Thomas Hamilton's Report on Sales Chasing in LaPorte County*, May 20, 2008.

75. On May 20, 2008, Mr. Denne presented information via email to the Department making four claims. First, he argued that samples used for the Mann-Whitney test do not have to be of the same size. The Department concurs and stated so in Mr. Schwab's memorandum on May 20, 2008. Second, Mr. Denne states that the Mann-Whitney test will detect sales chasing even if the percent change of sold and unsold properties do not have similar distributions, and that any such dissimilarity is by itself enough to conclude that sales chasing has occurred. The Department is unable to endorse or dismiss this finding. Third, Mr. Denne states that a lack of random sampling does not invalidate the tests. The Department agrees with Mr. Denne on this point as it is addressed in Mr. Schwab's memorandum on May 20, 2008. Lastly, Mr. Denne states that the time period between valuations does not invalidate the Mann-Whitney test for sales chasing, and recognizes that Dr. Hamilton "does not embrace the unsupported arguments of Kelly and Wuensch that the IAAO standard places any significance on the period of time between reassessments in testing for sales chasing." The Department agrees with Mr. Denne on this point. Att. 52, *Denne Rebuttal to Hamilton Critique*, May 21, 2008.

76. On May 21, 2008, another attempt was made by Dr. Hamilton to refute the Sales Chasing studies conducted by the Department. Att. 53, *Meighen ltr to Department*, May 21, 2008. Mr. Schwab has read both documents from Dr. Hamilton and continues to disagree that the shape of the sold and unsold property distributions (here referencing skew and kurtosis) invalidates the Mann-Whitney test. Dr. Hamilton provides no additional evidence to support this claim. Next, Dr. Hamilton continues to claim that a random sample is needed to draw valid inferences, and sold properties do not constitute a random sample of all properties. This is only true if one is attempting such an inference, while both the Department's and Mr. Denne's analysis rather demonstrate that sold and unsold properties were appraised differently. As further refutation, Dr. Hamilton offers a poorly worded definition of the Central Limit Theorem taken from a non-scholarly web site (www.animatedsoftware.com/statglos/sgcltheo.htm) along with several pages of analysis of the wrong data set (Table 1, Report A in Dr. Hamilton's study). Att. 54, David Schwab, *Response to Dr. Hamilton's Response to DLGF Analysis of Sales Chasing*, May 22, 2008.

77. The other claims raised by Dr. Hamilton in his May 21, 2008 documents are also dismissed by the Department as having no validity. *Id.*

Ratio Study

78. On April 10, 2008, the Department also distributed to the County and Mr. Wendt a ratio study that was created using the County's final 2006-pay-2007 ratio study matched with the LaPorte County Auditor's tax billing data file for 2006-pay-2007. Att. 37, *Department ltr to*

Wendt and County, LaPorte County 2006 Annual Trending: Exhibits, Vol. II, May 15, 2008, Vol. II, Tab C.

79. The Department's April 10, 2008 ratio study found the following non-conforming medians, coefficient of dispersions (CODs), and price-related differentials (PRDs): Springfield (improved residential) outside COD range; Noble (improved residential) outside PRD range; Galena (vacant residential) outside PRD range; Hanna (vacant residential) outside PRD range; Hudson (vacant residential) outside median, COD, and PRD ranges; Noble (vacant residential) outside PRD range; Scipio (vacant residential) outside PRD range; Springfield (vacant residential) outside PRD range; Center (improved commercial) outside PRD range; Michigan (improved commercial) outside PRD range; and LaPorte County, as a whole, (vacant commercial) outside the COD range. *Id.*

80. Nexus Group disputed the results of the Department's new ratio study due to failing to take outlier data into account, failing to expand sample size, mathematical errors, and use of County Auditor data to conduct such a ratio study. Nexus Group then provided a separate analysis to the Department. Nexus Group found "possible 2006 assessment issues (outside of a sales chasing argument) in two areas: Hanna TWP and Hudson TWP vacant residential property." Att. 55, *Kelly email to Department and Wendt re: Responses*, April 24, 2008; *see also* Att. 53, *Meighen ltr to Department*, May 21, 2008.

81. The Department's Mann-Whitney and t-tests from April 10, 2008 and May 20, 2008, the similar tests conducted by Mr. Denne, and the refutation of Dr. Hamilton by Mr. Schwab and Mr. Denne, demonstrates that unsold properties and sold properties were not appraised in the same manner in nine (9) townships in LaPorte County for improved residential properties.

82. Thus, as the 1999 IAAO Standard on Ratio Studies, Standard 10.1 states, "[i]f unsold properties are not appraised consistently with sold properties and applicable guidelines, unadjusted **sales ratio results cannot be used.**" Additionally, as Nexus Group itself presented to the Department on May 15, 2008, "Sales Chasing causes the following: **invalid uniformity results in a sales ratio study**; invalid appraisal level results unless similar unsold parcels are reappraised by a method that produces the same percentage market value (appraisal level) as on the parcels that 'sold'." Att. 56, *Trending Problematic Neighborhoods, etc...*, LaPorte County 2006 Annual Trending: Exhibits, Vol. II, May 15, 2008, Vol. II, Tab D.

Intentional Manipulation of Assessment Elements

83. On April 16, 2008 at a meeting at the Department the following persons were present: J. Barry Wood, Commissioner Musgrave, General Counsel Timothy J. Rushenberg, David Schwab, Steve McKinney, Everett Davis, and Terry Knee of the Department; County attorney Shaw Friedman and representatives of the Nexus Group, Dr. Frank Kelly and Jeff Wuensch; and attorneys Thomas Atherton and David Suess, analyst Bob Denne, and taxpayer Bill Wendt via telephone. At that meeting, Dr. Kelly stated that in some neighborhoods, Nexus intentionally and without cause adjusts one or more factors such as age, grade, or condition to arrive at what Nexus Group believes to be the correct market value-in-use. Dr. Kelly stated at that meeting, and then reiterated in a follow-up email, that the final assessed value is the only important

element of the assessment, not grade, condition or other elements, and that studies of changes in individual elements of assessed value (grade, condition, effective age, etc...) were "irrelevant." Att. 55, *Kelly email to Department and Wendt re: Responses*, April 24, 2008.

84. The Department agrees with Mr. Atherton when he wrote in his April 24, 2008 closing remarks to the Department and County:

Indiana's assessment system starts with the physical attributes of property and estimates the cost to construct those improvement. (Replacement Cost New, or RCN). The next step in the system is to depreciate the RCN based on factors such as age, grade and condition. Finally, the assessor adds in land value. If assessments set under the cost approach are to have any hope of accuracy and uniformity, it is imperative that the physical characteristics, age, grade and condition, and land values be established by the assessor as **accurately and honestly** as possible [emphasis added]. Att. 57, *Atherton ltr to Department and County*, April 24, 2008.

85. In an April 24, 2008 email to the Department and Mr. Wendt, Dr. Kelly attempted to refute the allegation of intentional and unwarranted manipulation of assessment elements by stating that "we take great umbrage to the Petitioner's unsubstantiated charge that we have knowingly applied false and illegal assessments." However, Dr. Kelly's statement is contrary to his statement to Department personnel, Mr. Wendt and his representatives, and the County at the April 16, 2008 meeting. Lastly, no attempt was made at the May 15, 2008 public hearing or in a May 21, 2008 letter from Nexus's attorney to refute that allegation of intentional and unjustifiable manipulation of assessment elements in order to reach a "bottom line value." Att. 58, *Atherton ltr to Department re: intentionally changing assessment elements*, May 21, 2008; see also Att. 53, *Meighen ltr to Department*, May 21, 2008.

86. The Department admonishes intentional and unjustifiable manipulation of elements of assessments, as such activities cast serious doubt on the uniformity, equity, accuracy, and justness of all real property assessments.

87. The Department strongly disagrees with the County's viewpoint that the Indiana Tax Court has endorsed such tactics in such cases as *Eckerling v. Wayne Twp Assessor*, 841 N.E.2d 674 (Ind. Tax Ct. 2006). The Tax Court in that decision ruled that "to the extent that an assessor may *err* in applying the regulations [2002 Real Property Assessment Manual, Guidelines, and 50 IAC 2.3] correctly, this will not necessarily invalidate the assessment so long as the assessment accurately reflects the property's market value-in-use." These Tax Court cases clearly are directed toward unintentional errors of an assessing official and do not justify intentionally manipulating assessment characteristics. None of the cases cited by or provided to the Department endorse the intentional manipulation of data by an assessing official or vendor.

Other Concerns Discussed; Not Dispositive on Issue of Reassessment

Contract

88. As was stated at the May 15, 2008 public hearing, the Department reviewed the contract between the County and Nexus Group after Department personnel read in the Michigan City

News-Dispatch that the County Attorney stated “a reassessment could cost to \$2 million the county doesn’t have.” Att. 44, Laurie Wink, Michigan City News-Dispatch, *County Bracing for Possible Reassessment*, May 8, 2008.

89. Review of that contract, revealed that the contract lacked the following required provisions:

- a. no fixed date by which Nexus must complete all responsibilities under the contract (IC 6-1.1-4-19.5(b)(1));
- b. no penalty clause (IC 6-1.1-4-19.5(b)(2));
- c. no provision for periodic reports (IC 6-1.1-4-19.5(b)(3));
- d. no provision stipulating the manner and time intervals at which periodic reports are to be made (IC 6-1.1-4-19.5(b)(4));
- e. no provision stipulating that contractor will generate complete parcel characteristics and parcel assessment data in a manner and format acceptable to LSA and the Department (IC 6-1.1-4 (IC 6-1.1-4-19.5(b)(6));
- f. no provision stipulating that LSA and the Department will have unrestricted access to Nexus’ work product (IC 6-1.1-4-19.5(b)(7));
- g. no provision that adequately provides for the creation and transmission of real property assessment data in the form required by LSA and the Department (IC 6-1.1-4-18.5(a)(2)).

90. Nexus Group acknowledges these elements are missing, but argues they are not required because the contract signed with the County in 2004 was an “annual adjustment” contract and at that time, the required statutory provisions did not apply to such contracts. The Department disagrees for two reasons:

a. First, according to the Motion to Dismiss Complaint for Declaratory Judgment and Damages filed by Nexus Group through its counsel on November 14, 2007 in the LaPorte Superior Court, Cause No. 46D02-0709-PL-129, which was discussed at the May 15, 2008 public hearing and again in Nexus Group’s May 21, 2008 submission to the Department, the “Services Agreement obligated Nexus to assist the County Assessor with the **general reassessment** required under Indiana law... As required under Ind. Code § 6-1.1-4-18.5(a), a written contract was utilized by the County Assessor through the Commissioners to obtain professional services **to assist with the general reassessment**.” Att. 59, *Motion to Dismiss Complaint for Declaratory Judgment and Damages*, LaPorte Superior Court No. 2, Cause No. 46D02-0709-PL-129, November 14, 2007; *see also* Att. 53, *Meighen ltr to Department*, May 21, 2008.

b. Second, in the “Services to be Performed” section of the contract it states the following, “Nexus agrees to work in conjunction with the Client and other service providers, including but not limited to those associated with the **reassessment** and/or software provision...” Reference to

the “reassessment” services further supports the Department’s position that the county assessor was not permitted to use the services of a professional appraiser, like Nexus Group, for “assessment or reassessment” purposes without a written contract that contained the required provisions under Ind. Code § 6-1.1-4-19.5(b). No evidence has been presented that this contract was, in fact, approved or even reviewed by the Department. Att. 60, *Professional Services Agreement: Draft*, June 24, 2004.

91. The Department rejects the argument that this issue was litigated at trial. A review of the pleadings and ruling filed in the case indicates no such discussion or even reference to this issue involving the particular statutory requirements for the contract. Also, the Department believes in order to protect the public interest it is important for contracts, such as this one, that clearly lack the required language to be brought to public eye and be strongly discouraged.

Cost Tables

92. 50 IAC 21-5-2: (a) If, upon review of the ratio studies, the local assessing official determines that a factor must be applied, the local assessing official shall proceed with the application of the annual adjustment factor in accordance with this article.

(b) If assessing officials determine that there are insufficient sales of commercial or industrial improved property in a township or county to determine an annual adjustment factor, the county shall use one (1) or more of the following to derive annual adjustment factors or modify the values of commercial and industrial property:

- (1) Marshall and Swift cost and depreciation tables from the first quarter of the calendar year preceding the assessment date.
- (2) Income data, rental data, market value appraisals, and other relevant evidence derived from appeals of the 2002 reassessment and adjusted, as applicable, to the January 1 of the year preceding the assessment date.
- (3) Commercial real estate reports.
- (4) Governmental studies.
- (5) Census data.
- (6) Multiple listing service (MLS) data.
- (7) The independent study performed by the Indiana Fiscal Policy Institute.

93. It has not been sufficiently demonstrated to the Department which of the seven (7) factors, if any, Nexus Group uses to derive annual adjustment factors or modify the values of commercial and industrial property. Att. 61, *Commercial & Industrial Cost Schedules*, March 1, 2006, LaPorte County, Indiana, LaPorte County 2006 Annual Trending: Exhibits, Vol. I, March 5, 2008, Vol. I, Tab 21.

NOW THEREFORE, in light of the above findings and after a review of all of the evidence before the Department presented to it by the County and Nexus, Mr. Denne, Mr. Wendt, Mr. Atherton, and the members of the public, as of May 22, 2008, and available for inspection at the Department, and the need for uniform, accurate, and equitable assessment of real property in LaPorte County, the Department hereby ORDERS:

Reassessment Order

94. The County Assessor shall reassess all real property in LaPorte County for the March 1, 2006, assessment date subject to approval by the Department. This reassessment shall not require full-scale reassessment activities normally associated with a general reassessment such as physical inspection of every property. The actions required for this reassessment are explained below.

95. **The reassessment of real property shall be completed by November 28, 2008** and assessed values shall be rolled to the County Auditor on or before December 31, 2008.

96. The valuation date for purposes of this reassessment shall be January 1, 2005. **The effective date of the reassessment shall be March 1, 2006.**

97. The Department reserves the right to examine, review, and reject any work product of the County Assessor at any time during the reassessment. The County Assessor shall meet with the Department and provide a status report within sixty (60) days of the date of this order. The County Assessor shall meet with the Department each month and provide a status report thereafter, and any such other dates as the Department may prescribe.

98. The County Assessor shall promptly provide any assistance requested by the Department and shall produce any documents, records, or other work product within three (3) calendar days of a written request by the Department.

99. The township assessors in LaPorte County shall promptly provide any assistance requested by the Department or the County Assessor and shall produce any documents, records, or other work product within three (3) calendar days of a written request by the Department or the County Assessor. In addition, because the calculation of assessments for the March 1, 2007, assessment date requires valid and accurate assessments for the March 1, 2006, assessment date, and no such valid and accurate assessment exists, the County Assessor shall direct the township assessors in LaPorte County to work on establishing assessments for the March 1, 2007, assessment date or to perform such other tasks as may be required.

Authority to Retain a Professional Appraisal Firm

100. The reassessment of residential, commercial, and industrial real property shall be completed in an expedited manner. The Department orders that the County Assessor utilize one or more certified professional appraiser(s) to perform the reassessment of residential, commercial and industrial real property.

101. The Department expressly authorizes the County Assessor to retain one or more certified professional appraiser(s) to perform the reassessment of residential property, subject to the approval and supervision of the Department. The chosen certified professional appraiser(s) must demonstrate to the Department that their work is in compliance with 50 IAC 2.3 and 50 IAC 21.

102. The County Assessor may retain certified professional appraiser(s) to perform the reassessment through Special Procurement and without employing the provisions of Ind. Code § 6-1.1-4-17. A contract between the County Assessor and a certified professional appraiser shall be reviewed for approval by the Department under Ind. Code § 6-1.1-4-18.5.

103. Any professional appraiser(s) retained by the County Assessor shall use as much information as already has been compiled by the assessing officials as is useful in completing the reassessment.

104. In this order, any reference to the County Assessor shall be interpreted to include reference to any certified professional appraisers that may be retained by the County Assessor.

Scope of Work – Land Valuation

105. The County Assessor shall evaluate all real property land values.

106. The County Assessor shall use the methodologies approved by the Department in 50 IAC 2.3 and 50 IAC 21 to make a determination in regard to the accuracy of current land values.

107. The County Assessor is required to establish new land base rates if the existing base rates are inaccurate.

108. The County Assessor shall review the allocation of Primary land, Secondary land, Usable Undeveloped land, and Unusable Undeveloped land and make any changes that are necessary to reach accurate land values.

109. The reassessment of land values shall not be considered complete until the Department has reviewed the proposed land values and provided written approval of a sales ratio study for each township.

Scope of Work – Neighborhood Evaluation

110. The County Assessor shall use current GIS maps, if available, and other information to review neighborhood boundaries and refine, develop, modify, or delineate assessment neighborhood boundaries to reflect comparable properties and property use groups. In order to accomplish this review, the County Assessor shall be granted access to any such GIS maps or other information necessary.

Scope of Work –Residential Properties

111. Under the direction and supervision of the County Assessor, the township assessors, contracted certified professional appraisers, or a combination as determined by the County Assessor, shall review and adjust residential land values. No change shall be made to the values of residential land unless expressly approved by the County Assessor.

112. A review of the initial March 1, 2006, annual adjustment analysis shall be completed in order to identify and create new neighborhoods to stratify sales data so that each neighborhood meets the statistical requirements of 50 IAC 21.

113. Under the direction and supervision of the County Assessor, the township assessors, contracted certified professional appraisers, or a combination as determined by the County Assessor, shall review and adjust the assessments of all improved residential properties. No changes shall be made to the values of residential properties unless expressly approved by the County Assessor.

114. In reviewing and adjusting improved residential properties, the County Assessor must use assessment methodology approved by the Department in either 50 IAC 2.3 or 50 IAC.

Scope of Work – Cost Approach

115. The County Assessor shall develop an annual adjustment factor for all non-residential properties that reflect property values for January 1, 2005, and shall apply the factor to either the individual components or the overall improvement value.

116. The annual adjustment factors developed under the cost approach must be approved in writing by the Department before they are applied to the value of any property. If the Department rejects the annual adjustment factors, the County Assessor shall develop new factors.

Scope of Work – Sales Approach

117. The County Assessor shall evaluate the validity of each sale from the 2004 and 2005 sales disclosure file database, and where applicable, generate and apply an annual adjustment factor calculated for all non-residential property.

118. The annual adjustment factors developed under the sales approach must be approved in writing by the Department before they are applied to the value of any property. If the Department rejects the annual adjustment factors, the County Assessor shall develop new factors.

Scope of Work – Reconciliation of Cost and Sales Approaches

119. Once the factors have been determined under the cost approach and sales approach, those factors shall be compared and reconciled in accordance with generally accepted appraisal practices to develop a final annual adjustment factor for each non-residential property.

120. The final annual adjustment factors developed under the cost and sales approaches must be approved in writing by the Department before they are applied to the value of any property. If the Department rejects the annual adjustment factors, the County Assessor shall develop new factors.

121. Once the final annual adjustment factors have been developed by the County Assessor, the County Assessor shall provide a report for data entry into a CAMA system. Once the final

annual adjustment factors have been developed by the County Assessor, the county Assessor shall ensure that the data is entered into a CAMA system, either by the assessing officials or otherwise.

Scope of Work – Income Approach

122. The County Assessor may use the income approach to develop assessed values for non-residential properties as she deems appropriate. Any assessment changes resulting from application of the income approach must be approved in writing by the Department before they are applied to the value of any property.

123. If the Department rejects the income approach assessed values, the County Assessor shall develop assessed values for those properties using the cost and sales approaches. The final annual adjustment factors developed under the cost and sales approaches must be approved in writing by the Department before they are applied to the value of any property. If the Department rejects the annual adjustment factors, the County Assessor shall develop new factors.

Scope of Work – Final Ratio Study

124. Once all non-residential real property has been reviewed and final annual adjustment factors have been applied, a sales-assessment ratio study shall be completed by the County Assessor.

125. The final ratio study shall be performed using the methods or combination of methods acceptable under the Standard on Ratio Studies published by the International Association of Assessing Officers (“IAAO”) or other acceptable appraisal methods approved by the Department in 50 IAC 21.

Final Review and Approval by the Department

126. The Department shall review the final ratio study to determine whether the re-trending work has resulted in accurate and equitable assessments in all classes of property.

127. If the Department finds errors in the accuracy or equity of assessment, the Department may reject the proposed assessments and direct the County Assessor to take any corrective action the Department deems necessary to achieve accurate and equitable assessments.

128. Pursuant to the requirements of 50 IAC 21, the ratio study prepared under this Order shall be approved in writing by the Department before the assessed values are rolled to the County Auditor. The Department may direct the County Assessor to take any corrective action the Department deems necessary to achieve accurate and equitable assessments.

Property Tax Billing and Payment Issues

129. The 2006 pay 2007 assessed values previously determined shall be void.

130. The reconciliation bills shall be mailed no later than March 1, 2009. Payments for the reconciliation bills shall be due on March 15, 2009. The County must obtain written authorization from the Department to change these dates.

131. The LaPorte County Treasurer shall mail a reconciliation bill on each and every parcel in the county upon completion of the reassessment. This reconciliation billing is required even if the taxpayer does not owe additional taxes or is entitled to a refund or credit. A notification of change in assessment must be sent as required by Ind. Code § 6-1.1-4-22 in order to establish appeal rights for each taxpayer. This notice of change in assessment is required even if the taxpayer's assessment did not change or decreased in value. A taxpayer shall have forty-five (45) days from the date the reconciliation bill and notice is mailed to appeal the assessed value developed during the reassessment.

132. The reconciliation bills and the notifications of change in assessment required in Ind. Code § 6-1.1-4-22 must be mailed on the same day.

Assessment Appeals

133. All assessment appeals for the March 1, 2006, assessment date shall be stayed pending the completion of the reassessment. Any exemption appeals that may be pending shall continue to be processed according to Indiana law.

134. Upon conclusion of the reassessment, the County Assessor shall implement a procedure for promptly contacting taxpayers who had filed an appeal before the mailing of the reconciliation bill to determine whether the taxpayer wishes to pursue the previously filed appeal. If the taxpayer chooses to pursue the appeal, it shall be processed in accordance with Ind. Code 6-1.1-15.

135. If the taxpayer chooses to withdraw the appeal, the County Assessor shall confirm this fact in writing and dismiss the appeal petition.

136. Any assessment appeals filed from the reconciliation bills after completion of the reassessment shall be processed in accordance with Ind. Code 6-1.1-15.

Cost of Reassessment

137. Pursuant to Ind. Code 6-1.1-4-29(a), all costs of the reassessment of real property in LaPorte County for the March 1, 2006 assessment date under the terms set forth in this order shall be paid from County funds. The County Auditor shall issue warrants for the payment of reassessment expenses. No prior appropriations are required in order for the Auditor to issue warrants.

138. The Department has determined that the total cost of the reassessment of real property in LaPorte County for the March 1, 2006 assessment date, under the terms set forth above, shall not exceed two-hundred nineteen thousand dollars (\$219,000), which is the cost of the current contract for one year of work between the County and Nexus Group; however, if the County

must exceed this total cost, they shall request permission from the Department. In accordance with Ind. Code 6-1.1-4-29(b), the County Assessor, the County Property Tax Assessment Board of Appeals, and the County Auditor may not exceed the amount determined by the Department.

139. Nothing in this Order shall preclude the County's fiscal authorities from appropriating, re-appropriating, transferring or spending funds for assessment or assessment-related purposes.

Effect on 2008 Budget Order

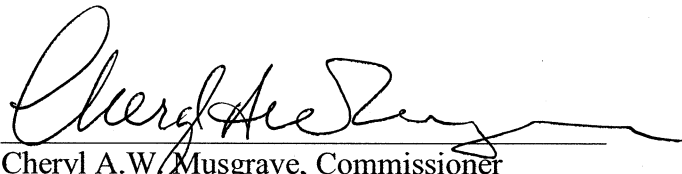
140. While the County Assessor is reassessing 2006-pay-2007 assessed valuations for residential, commercial, and industrial properties in accordance with this Order, the County Assessor is hereby ordered to begin and follow through with the annual adjustment process for 2007-pay-2008 assessed valuations using 2005 and 2006 sales data, and the cost, income, and other approaches to value in accordance with 50 IAC 21-5-2(b). The resulting annual adjustment, or trending, factors shall then be applied accordingly to 2006-pay-2007 and 2007-pay-2008 assessed valuations.

141. Because the assessed values determined using the process above may affect both the tax rates and levies for taxes first due and payable in 2008, the Department will not certify the 2008 Budget Order, including budgets, tax rates, and tax levies, for LaPorte County until the process described above has been completed. Ind. Code § 6-1.1-17.

142. The County may issue provisional bills for 2007-pay-2008 at one-hundred percent (100%) of the 2006-pay-2007 rates pursuant to Emergency Rule 08-297(E) and Ind. Code 6-1.1-22.5. Values set as a result of an appeal shall be the basis for 2007 pay 2008 provisional bills, if applicable.

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SO ORDERED this 23rd day of May, 2008.

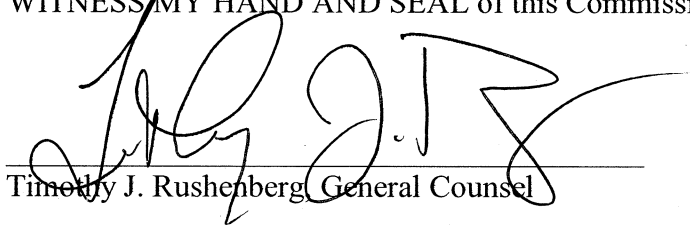


Cheryl A.W. Musgrave, Commissioner
Department of Local Government Finance

STATE OF INDIANA
DEPARTMENT OF LOCAL GOVERNMENT FINANCE

I, Timothy J. Rushenberg, General Counsel for the Department of Local Government Finance, hereby certify that the above is an order of the Commissioner of the Department of Local Government Finance made this date in the above-entitled matter and that the Commissioner has personally signed the same under her statutory authority.

WITNESS MY HAND AND SEAL of this Commissioner on this the 23rd day of May, 2008



Timothy J. Rushenberg, General Counsel

Attachments:

1. *Ltr from Henson to County Assessor*, February 28, 2007
2. *Memo from Denne to Wendt on LaPorte County Ratio Study*, February 28, 2007
3. *Ltr from Wood to County Assessor*, March 6, 2007
4. *Ltr from Kelly to Wood*, LaPorte County 2006 Annual Trending: Summary, Rebuttal & Exhibits, Vol. I, March 5, 2008, Tab 7
5. *Ltr from Rep. Pelath to Henson*, March 14, 2007.
6. *Ltr from Henson to County Assessor*, March 16, 2007;
7. *DLGF Summary Worksheet for LaPorte*, LaPorte County 2006 Annual Trending: Summary, Rebuttal & Exhibits, Vol. I, March 5, 2008, Tab 17
8. *Ltr from Henson to Wendt*, March 16, 2007.
9. *Ltr from Henson to Rep. Pelath*, March 30, 2007.
10. *Email from Raskosky to County Assessor*, September 6, 2007
11. *LaPorte Value Change by Class*, LaPorte County 2006 Annual Trending: Summary, Rebuttal & Exhibits, Vol. I, March 5, 2008, Tab 17.
12. *Assessments for LaPorte County dated March 1, 2006, pay 2007 – compliance with legal requirements and professional standards*, October 19, 2007.
13. *Atherton ltr to Musgrave*, October 29, 2007.
14. *Musgrave ltr to County Assessor*, November 20, 2007.
15. *Email ltr from Friedman*, November 23, 2007.
16. *LaPorte County Response to Denne ("October Report")*, *Wendt & Atherton Inquiries*, LaPorte County 2006 Annual Trending: Summary, Rebuttal & Exhibits, Vol. I, March 5, 2008, Tab 8; Compact Disc.
17. *Musgrave ltr to Atherton*, December 4, 2007.
18. *Rep. Pelath ltr to Musgrave*, December 4, 2007.
19. *Musgrave ltr to Rep. Pelath*, December 13, 2007.
20. *Email from Kelly re: ethics*, December 17, 2007
21. *Musgrave Ltr to County Assessor and Atherton*, December 21, 2007.
22. *Musgrave Ltr to County Assessor and Atherton*, January 17, 2008.
23. *Denne email to Department re: LaPorte County Ratio Study Data*, January 24, 2008.
24. *Atherton Ltr to Department*, January 24, 2008.
25. Laurie Wink, Michigan City News-Dispatch, "*PTABOA Meets Today*", January 30, 2008.
26. Rick A. Richards, Michigan City News-Dispatch, "*Meeting Canceled*", January 31, 2008;
27. *Friedman email to Department re: PTABOA*, January 31, 2008.
28. *Department email to Friedman*, February 7, 2008.
29. *Friedman email to Department*, February 20, 2008.
30. *Clerkin email re: LaPorteAuditorPay07*, February 25, 2008.
31. *Department email to Friedman re: 2006-pay-2007 LaPorte Co. assessments*, February 25,
32. *Department email to Atherton re: LaPorte County*, February 26, 2008.
33. *Atherton ltr to Department*, February 27, 2008.
34. *Notice of Public Meeting*, February 29, 2008.
35. *Department email to Wendt and County*, March 4, 2008.
36. *Department email to Wendt and County re: analysis/public*, March 5, 2008
37. *Department PowerPoint presentation*, March 6, 2008.
38. *Speaker Sign-in List*, March 6, 2008.

39. *Department ltr to Wendt and County re: DLGF Mann-Whitney and ratio study*, LaPorte County 2006 Annual Trending: Exhibits, Vol. II, May 15, 2008, Vol. II, Tab C.
40. *Email exchanges between Department, County, and Wendt re: scheduling of mtg regarding DLGF analysis -- LaPorte*, April 14, 2008.
41. *Email exchange re: conference call among Department, County and Nexus, and Wendt and his representatives*, April 23, 2008.
42. *Resolution #2008-01*, May 1, 2008.
43. *Notice of Public Hearing on Indiana Department of Local Government Resolution #2008-01*, May 1, 2008 with Advertising Receipts.
44. *Rep. Pelath ltr to Governor*, May 7, 2008, LaPorte County 2006 Annual Trending: Exhibits, Vol. II, May 15, 2008, Vol. II, Tab M.
45. Laurie Wink, Michigan City News-Dispatch, *County Bracing for Possible Reassessment*, May 8, 2008.
46. *Letters to Department for and against reassessment*.
47. *Public Hearing on Reassessment of Real Property in LaPorte County*, May 15, 2008.
48. David Schwab, *Evaluation of Effective Age Change Between Years 2005 and 2006 in Unsold Residential Improved Dwellings in LaPorte County*, April 16, 2008.
49. Nexus Group, *DLGF Ratio Study Analysis*, April 16, 2008.
50. *An Analysis of Ratio Studies & Sales Chasing Studies Conducted by the Indiana Department of Local Government Finance and Mr. Robert Denne*, May 15, 2008, LaPorte County 2006 Annual Trending: Exhibits, Vol. II, May 15, 2008, Tab B.
51. *DLGF Analysis of Dr. Thomas Hamilton's Report on Sales Chasing in LaPorte County*, May 20, 2008.
52. *Denne Rebuttal to Hamilton Critique*, May 21, 2008.
53. *Meighen ltr to Department*, May 21, 2008.
54. David Schwab, *Response to Dr. Hamilton's Response to DLGF Analysis of Sales Chasing*, May 22, 2008.
55. *Kelly email to Department and Wendt re: Responses*, April 24, 2008
56. *Trending Problematic Neighborhoods, etc...*, LaPorte County 2006 Annual Trending: Exhibits, Vol. II, May 15, 2008, Vol. II, Tab D
57. *Atherton ltr to Department and County*, April 24, 2008.
58. *Atherton ltr to Department re: intentionally changing assessment elements*, May 21, 2008.
59. *Motion to Dismiss Complaint for Declaratory Judgment and Damages*, LaPorte Superior Court No. 2, Cause No. 46D02-0709-PL-129, November 14, 2007.
60. *Professional Services Agreement: Draft*, June 24, 2004
61. *Commercial & Industrial Cost Schedules*, March 1, 2006, LaPorte County, Indiana, LaPorte County 2006 Annual Trending: Exhibits, Vol. I, March 5, 2008, Vol. I, Tab 21

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